

# **PUBLIC SERVICE COMPANY OF NEW MEXICO**

## **ORDER No. EA-140**

### **I. BACKGROUND**

Exports of electric energy from the United States to a foreign country are regulated and require authorization under Section 202(e) of the Federal Power Act (FPA) (16 U.S.C. §824a(e)).

On September 24, 1996, in Docket EA-124, Public Service Company of New Mexico (PNM) applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to transmit electric energy to Mexico through the facilities of El Paso Electric Company (EPE). On January 16, 1997, in FE Docket EA-140, PNM requested the same electricity export authority through the facilities of San Diego Gas and Electric Company (SDG&E).

PNM is a public utility engaged in the generation, transmission, distribution, and sale of electricity and in the transmission, distribution, and sale of natural gas within the State of New Mexico. PNM proposes to transmit electric energy to Comision Federal de Electricidad (CFE), the national electric utility of Mexico, over the international electric transmission facilities owned and operated by EPE and SDG&E. Electric energy PNM proposes to sell to CFE would be excess energy from the PNM system. PNM would arrange for the exported energy to be wheeled from PNM, over existing domestic transmission facilities, and delivered to CFE over one or more of the international transmission lines owned by EPE or SDG&E.

Notice of the application to export electric energy through the EPE facilities (FE Docket EA-124) appeared in the Federal Register on September 30, 1996, (61 FR 51088) requesting that comments, protests, and petitions to intervene be submitted to the DOE by October 14, 1996. None were received.

Notice of the application to export electric energy through the SDG&E facilities (FE Docket EA-140) appeared in the Federal Register on January 29, 1997 (62FR4273) requesting that comments, protests, and petitions to intervene be submitted to the DOE by February 28, 1997. None were received.

## **II. DISCUSSION and ANALYSIS**

The authority requested of DOE by PNM is a necessary condition for exporting under section 202(e) of the FPA. PNM must make the necessary commercial arrangements, including obtaining all necessary transmission access required to wheel the exported energy to the foreign purchaser, and obtain any and all other regulatory approvals which may be required in order to effect the export. In considering PNM's request for service, the transmitting utilities would have to assess the electric reliability impacts of moving the export through their system, and presumably, would only provide service under terms and conditions that will not cause reliability problems on their system.

An export authorization under section 202(e) does not impose on transmitting utilities a requirement to provide service. DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the FPA and articulated in the Federal Energy Regulatory Commission's (FERC) Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities). The actual rates, terms and conditions of transmission service shall be consistent with the non-discrimination principles of the FPA and the transmitting utility's Open Access Transmission Tariff on file with the FERC.

All recipients of export authorizations, including owners of border facilities with Presidential permits, are required by their export authorization to conduct operations in accordance with the principles of the FPA and pertinent rules, regulations and orders, which include the comparable open access provisions of FERC Order No. 888. FERC concluded that the cross-border electric trade ought to be subject to the same principles of comparable open-access and non-discrimination that apply to transmission in interstate commerce. (Order On Complaint issued October 4, 1996 (Docket EL96-74-000)). It further concluded that DOE, not FERC, had the authority, under the FPA and by the Executive Order authorizing Presidential permits in the public interest, to require such service over the domestic portion of the international lines up to and crossing the border. DOE agrees with these conclusions.

On October 29, 1996, the Secretary of Energy signed Delegation Order No. 0204-163, which delegated and assigned to the FERC authority to carry out such functions vested in the Secretary to regulate access to, and the rates, terms and conditions for, transmission services over EPE facilities, which are involved in this Order. This authority was delegated to FERC for the sole purpose of carrying out the Department's policy and, thus, authorized FERC to take any further actions that may be necessary to effectuate open access transmission over the United States portion of EPE's electric transmission lines. Notice and a copy of the Delegation Order were published in the Federal Register on November 1, 1996, at 61 FR 56525.

The Department's position is clear. International exports of electricity should be subject to the same principles of comparable open access and non-discrimination that apply to the domestic interstate transmission of electricity. Therefore, DOE expects owners of border facilities to comply with the above stated policy such that no further action by the Department will be required.

Before an electricity export authorization is granted, DOE must find that the proposed export will not impair the sufficiency of electric supply within the U.S. and that it will not impede the coordinated use of regional transmission facilities. DOE always has predicated its reliability analyses for these "traditional" entities (e.g., electric utility companies and power pools) on the assumption that the exported energy would be supplied from the exporting system's total supply resources, without associating the exported energy with any particular component of those resources. In fact, the total supply resources of most "traditional" applicants usually include power purchased from other systems or regions. DOE believes it is neither possible nor appropriate to look behind an export and consider the reliability impacts of delivering power purchased from other sources onto the exporter's system.

In its application, PNM requested that the proposed export authorization be granted for a period of five years. In the past, DOE has imposed time limits on export authorizations granted to power marketers, but generally has not seen the necessity for placing such limits on "traditional" utilities. The DOE believes that the well-established industry operating guidelines and a vested interest in maintaining the integrity of their physical facilities obviates the need for such time limits. Therefore, for the foreseeable future, DOE will continue to issue export authorizations to "traditional" utilities without time limits.

### **III. FINDING and DECISION**

DOE has assessed the impact that the proposed export would have on the reliability of the U.S. electric power supply system. Based on the above discussion and analysis, DOE has determined that the export of electric energy to Mexico as requested by PNM would not impair the sufficiency of electric power supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities provided PNM complies with the requirements of the existing Southern California Import Transmission Nomogram that governs the amount of imports allowed into the southern California area, the So. New Mexico Import Nomogram that governs the amount of imports allowed into the So. New Mexico area, and all other existing or future relevant nomograms and reliability and operating restrictions to ensure acceptable system operation.

DOE also has determined that this action is among those classes of actions not normally requiring preparation of an environmental assessment or an environmental impact statement and,

therefore, is eligible for categorical exclusion under Appendix B to Subpart D, paragraph B4.2 of the revised DOE Regulations implementing the National Environmental Policy Act of 1969. Documentation of the use of this categorical exclusion has been placed in this Docket.

The authority granted herein by this Order encompasses the exports requested in FE Dockets EA-124 and EA-140. Therefore, a separate order will not be issued in FE Docket EA-124.

#### **IV. ORDER**

Based on the above finding, it is hereby ordered that PNM is authorized to export electric energy to Mexico under the following terms and conditions:

(A) The electric energy exported by PNM pursuant to this Order may be delivered to Mexico only over the following existing international transmission facilities for which assessments of the transmission limits for operation in the export mode have been made:

<u>Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u>
San Diego Gas & Electric	Miguel, CA	230 kV	PP-68
	Imperial Valley, CA	230 kV	PP-79
El Paso Electric Company	Diablo, NM	115 kV	PP-92
	Ascarate, TX	115 kV	PP-48

(B) Exports authorized herein shall not cause a violation of the terms and conditions contained in existing electricity export authorizations associated with the international transmission facilities identified in paragraph (A). Specifically:

(1) Exports made by PNM pursuant to this Order shall not cause the total exports on a combination of the facilities authorized by Presidential Permits PP-68 and PP-79 to exceed an instantaneous transmission rate of 400 megawatts (MW). All exports made pursuant to this Order must be consistent with the operating limitations established by the SDG&E/CFE operating nomogram and the Southern California Import Transmission Nomogram.

(2) Exports made by PNM pursuant to this Order shall not cause the total exports on a combination of the facilities authorized by Presidential Permits PP-48 and PP-92 to exceed

an instantaneous transmission rate of 200 MW. All exports to made pursuant to this Order must be consistent with the operating limitations of the Southern New Mexico Import Nomogram.

(C) Amendment of the export authorizations from which the export limits contained in subparagraphs (B)(1) and (B)(2) were derived shall result in a concomitant change to the export limits contained in those subparagraphs. Notice will be provided PNM of any amendments to existing export authorizations that would impact on this Order.

(D) PNM may commence exports only over those international transmission lines identified in paragraph (A) for which PNM provides DOE written evidence that sufficient transmission service has been obtained for delivery of the exported energy to the border. This evidence can consist of signed letters of agreement for the service between PNM and each Presidential permit holder and should identify specific facilities by name and Presidential permit number.

(E) In scheduling the delivery of electricity exports to Mexico, PNM shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Council and Regional Councils, on such terms as expressed therein, and as such criteria, standards, and guides may be amended from time to time.

(F) PNM shall conduct all operations pursuant to the authorization hereby granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations, and orders adopted or issued thereunder, including the comparable open access provisions of FERC Order No. 888.

(G) The authorization herein granted may be modified from time to time or terminated by further order of the DOE, but in no event shall such authorization extend beyond the date of termination or expiration of the Presidential permits referred to in paragraph (A).

(H) This authorization shall be without prejudice to the authority of any State or State regulatory commission for the exercise of any lawful authority vested in such State or State regulatory commission.

(I) PNM shall make and preserve full and complete records with respect to the electric energy exported to Mexico. PNM shall furnish a report to the DOE annually by February 15, detailing for each month of the previous calendar year: (1) the gross amount of electricity delivered, in kilowatt hours (scheduled transactions); (2) the consideration received for such energy; and (3) the peak hourly rate of transmission, in kilowatts.

Reports shall be submitted to the U.S. Department of Energy, Office of Fossil Energy, FE-52, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified reports will

also be accepted via facsimile at (202) 287-5736 to meet time requirements, but original copies should still be filed at the above address.

(J) In accordance with 10 C.F.R. §205.305, this authorization is not transferable or assignable, except in the event of the involuntary transfer of this authority by operation of law. Provided written notice of the involuntary transfer is given DOE within 30 days, this authorization shall continue in effect temporarily. This continuance also is contingent on the filing of an application for permanent authorization within 60 days of the involuntary transfer and the authorization shall then remain effective until a decision is made on the new application. In the event of a proposed voluntary transfer of this authority to export electricity, the transferee and the transferor shall file jointly an application for a new export authorization, together with a statement of reasons for the transfer.

(K) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would impair or tend to impair the reliability of the U.S. electric power supply system.

Issued in Washington, D.C., on March 3, 1997.

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